

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

SOUTH CAROLINA COASTAL)
CONSERVATION LEAGUE, et al.,)
Plaintiffs,) Civ. No. 2:18-cv-3326-RMG
) (Consolidated with 2:18-cv-3327-RMG)
v.)
WILBUR ROSS, in his official capacity) **FEDERAL DEFENDANTS' STATUS**
as the Secretary of Commerce, et al.,) **REPORT**
Defendants.)
)

In response to the Court's Order dated July 12, 2019 (Dkt. No. 333) requiring Federal Defendants to "inform the Court by what day they will provide the staff-level communications between [the National Marine Fisheries Service ("NMFS")] and [the Bureau of Ocean Energy Management ("BOEM")] to the Environmental Plaintiffs," Federal Defendants provide the following information:

1. Except as described in Paragraph 2, no later than July 25, 2019, Federal Defendants will send staff-level communications between NMFS and BOEM regarding the incidental harassment authorizations issued by NMFS and challenged in this litigation to the parties by overnight mail. *See* 83 Fed. Reg. 63,268 (Dec. 7, 2018).
2. As previously explained to counsel for Environmental Plaintiffs, BOEM has identified a sub-set of the staff-level communications described in Paragraph 1 that may contain confidential and proprietary information provided by the Intervenor-Defendants to BOEM and protected from disclosure as provided by applicable law and BOEM regulations. Confidential and proprietary information cannot be released to the parties absent authorization from the

applicant providing such information (here, Intervenor-Defendants). This sub-set of communications was sent by Fed-Ex overnight delivery to counsel for the Intervenor-Defendants on July 16, 2019, with the request that they review the documents and provide their position on the contents no later than 7 days from receipt (i.e., July 24). Federal Defendants anticipate that they will be able to produce any documents cleared for release within 14 days of receiving a response to the release request.

3. Federal Defendants maintain their view that the documents described in Paragraphs 1 and 2 are deliberative and not part of the official administrative record for this case, and further that they are not waiving any applicable privileges by providing them to the parties. *See* Dkt. Nos. 331-2, 331-4.

Respectfully submitted this 17th day of July, 2019.

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CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2019, I electronically filed the foregoing Federal Defendants' Status Report with the Clerk of Court using the CM/ECF system, which will send electronic notification of such filing to all counsel of record.

/s/ Alison C. Finnegan